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12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
14

15 AMERICAN CIVIL LIBERTIES  
16 UNION FOUNDATION OF  
SOUTHERN CALIFORNIA,

17 Plaintiff,

18 v.

19 UNITED STATES IMMIGRATION  
20 AND CUSTOMS ENFORCEMENT, et  
al.,

21 Defendants.  
22

No. 2:22-cv-04760-SHK

**DEFENDANT U.S. IMMIGRATION  
AND CUSTOMS ENFORCEMENT'S  
STATEMENT OF  
UNCONTROVERTED FACTS**

Honorable Shashi H. Kewalramani  
United States Magistrate Judge

Pursuant to Fed R. Civ. P. Rule 56 and Local Rule 56-1, Defendant ICE submits this Statement of Uncontroverted Facts.

No.	UNCONTROVERTED FACT	SUPPORTING EVIDENCE
1	Plaintiff's FOIA Request sought "any and all records that were prepared, received, transmitted, collected, and/or maintained by ICE or DHS that describe, refer, or relate to the release of hospitalized detainees from custody before their death; any records related to release of individual detainees once hospitalized; and any records related to the death of such detainees after their release from custody, including any communications or investigations" dating from January 1, 2016.	Dkt. 24 (First Amended Complaint), ¶ 35 & Ex. A thereto (Dkt. 24-1 at 2-14)
2	ICE received the FOIA Request on May 2, 2022.	Declaration of Fernando Pineiro, ¶ 4
3	On May 16, 2022, the ICE FOIA Office sent Plaintiff a letter acknowledging receipt of the FOIA request. It was assigned tracking number 2022-ICFO-16321.	Declaration of Fernando Pineiro, ¶ 5
4	When the ICE FOIA Office receives a FOIA request, the intake staff evaluates it to determine if it is a proper FOIA request per DHS FOIA regulation 6 C.F.R. § 5.3. Generally, a FOIA request is considered proper and in compliance with DHS regulations if it reasonably describes the records sought and the records are under the purview of ICE.	Declaration of Fernando Pineiro, ¶ 9
5	Proper FOIA requests are entered into a database known as Secure Release and assigned a case tracking number. Based upon the requestor's description of the records being sought and ICE FOIA's knowledge of the various program offices' missions, the ICE FOIA Office identifies the program office(s) likely to possess responsive records and tasks the appropriate program office(s) to conduct the necessary searches.	Declaration of Fernando Pineiro, ¶ 10
6	ICE records are maintained by leadership offices and/or within ICE directorates, including but not limited to, the Office of Public Affairs (OPA), the Office of Enforcement and Removal Operations (ERO), the Office of Professional Responsibility (OPR) and the ICE FOIA Office. The program offices are	Declaration of Fernando Pineiro, ¶ 11

	typically staffed with a designated point of contact (POC) who is the primary person responsible for communications between that program office and the ICE FOIA Office. Each POC is a person with detailed knowledge about the operations of his/her respective program office.	
7	Upon receipt of a proper FOIA request, the ICE FOIA Office will identify which program offices, based upon their experience and knowledge of ICE's program offices, within ICE are reasonably likely to possess records responsive to that request, if any, and task the relevant program offices with searches.	Declaration of Fernando Pineiro, ¶ 12
8	Once the ICE FOIA Office determines the appropriate program offices for a given request, it provides the POCs within each of those program offices with a copy of the FOIA request and instructs them to conduct a search for responsive records. The POCs then review the FOIA request, along with any case-specific instructions that may have been provided and, based on their experience and knowledge of their program office practices and activities, forward the request and instructions to the individual employee(s) or component office(s) within the program office that they believe are reasonably likely to have responsive records, if any.	Declaration of Fernando Pineiro, ¶ 12
9	In conformity with the ICE FOIA Office's instructions, the individuals and component offices are directed to conduct searches of their file systems, including both paper files and electronic files, which in their judgment, based on their knowledge of the manner in which they routinely keep records, would most likely be the files to contain responsive documents.	Declaration of Fernando Pineiro, ¶ 12
10	Once those searches are completed, the individuals and component offices provide any potentially responsive records to their program office's POC, who in turn, provides the records to the ICE FOIA Office. The ICE FOIA Office then reviews the collected records for responsiveness and the application of appropriate FOIA Exemptions.	Declaration of Fernando Pineiro, ¶ 12
11	ICE employees maintain records in several ways. ICE program offices use various systems to maintain records, such as investigative files, records regarding the operation of ICE programs, and administrative records.	Declaration of Fernando Pineiro, ¶ 13
12	ICE employees may store electronic records on their individual computer hard drives or their program office's shared drive (if the office uses one).	Declaration of Fernando Pineiro, ¶ 13

13	The determination of whether or not these electronic locations must be searched in response to a particular FOIA tasking, as well as how to conduct any necessary searches, is necessarily based on the manner in which the employee maintains his/her files.	Declaration of Fernando Pineiro, ¶ 13
14	Additionally, all ICE employees have access to e-mail. ICE uses the Microsoft Outlook e-mail system. Each ICE employee stores his/her files in the way that works best for that particular employee. ICE employees use various methods to store their Microsoft Outlook e-mail files - some archive their files monthly, without separating by subject; others archive their e-mail by topic or by program; still others may create PST files of their emails and store them on their hard drive or shared drive.	Declaration of Fernando Pineiro, ¶ 14
15	Each ICE employee stores his/her files in the way that works best for that particular employee. ICE employees use various methods to store their Microsoft Outlook e-mail files - some archive their files monthly, without separating by subject; others archive their e-mail by topic or by program; still others may create PST files of their emails and store them on their hard drive or shared drive.	Declaration of Fernando Pineiro, ¶ 14
16	Records received by the ICE FOIA Office from the program office POCs are assigned to a FOIA processor who determines whether or not the records are responsive to the FOIA request. If the records are responsive, the FOIA processor will redact information pursuant to the FOIA or Privacy Act, as appropriate, while simultaneously ensuring that all reasonably segregated non-exempt information is released.	Declaration of Fernando Pineiro, ¶ 15
17	Frequently, the ICE FOIA Office must coordinate between multiple program offices to ensure the program office records are properly redacted and information is correctly segregated.	Declaration of Fernando Pineiro, ¶ 16
18	Once the ICE FOIA Office completes its coordination efforts and all responsive records have been processed, the ICE FOIA Office releases the responsive records to the requestor.	Declaration of Fernando Pineiro, ¶ 16
19	After reviewing the Request, and based on the information sought in the Request, the experience and knowledge of ICE's practices and activities and discussions with the Plaintiff, the ICE FOIA Office determined that because of the subject matter of the Request, OPR, various subcomponents of ERO, the Office of Regulatory Affairs and Policy (ORAP), and Homeland Security Investigations Joint Intelligence Operations Center	Declaration of Fernando Pineiro, ¶ 18

	(JIOC) were the program offices likely to have responsive records (if such records existed).	
20	The ICE FOIA Office also agreed to search the emails of former ICE Directors at Plaintiff's request.	Declaration of Fernando Pineiro, ¶ 18
21	Based on their subject matter expertise and knowledge of the agency record systems, the ICE FOIA Office instructed these program offices to conduct a comprehensive search for records and to provide all potentially responsive records located during that search to the ICE FOIA Office for review and processing.	Declaration of Fernando Pineiro, ¶ 18
22	All locations likely to contain records responsive to the Request (to the extent that they exist within ICE's custody) were searched.	Declaration of Fernando Pineiro, ¶ 18
23	Based on ICE's searches, a total of 53,426 pages of potentially responsive records were located, along with 911 pages of records referred to ICE from other departments.	Declaration of Fernando Pineiro, ¶ 82
24	Of those 53,426 pages, 21,153 pages and an Excel spreadsheet were determined to be responsive and produced to the Plaintiff.	Declaration of Fernando Pineiro, ¶ 82

Dated: March 19, 2025

Respectfully submitted,

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